IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 10TH AUGUST 2007 / 19TH SRAVANA 1929

Bail Appl..No. 4840 of 2007()

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CMP.450/2007 of SPL. COURT (NDPS ACT CASES), VADAKARA
CRIME NO.302/2007 OF SULTHAN BATHERY POLICE STATION

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PETITIONER/ACCUSED

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NASAR, S/O. ABDUL RAHMAN,
PARAKKAL HOUSE,FIRE LAND COLONY,
SULTHAN BATHERY.

BY ADV. SRI.P.JACOB VARGHESE
SRI.VIVEK VARGHESE P.J.
SMT.PRAISHEEL PRAKASAM

RESPONDENT/COMPLAINANT:

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CIRCLE INSPECTOR OF POLICE,
SULTHAN BATHERY POLICE STATION,
REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 10/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**R.BASANT, J.**

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B.A.No. 4840 of 2007

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Dated this the 10th day of August 2007

**O R D E R**

Application for regular bail. The petitioner faces allegations under the N.D.P.S.Act. He was allegedly found to be in possession of 8 ampules of Buprenorphine LUPEGESIC each of 2 ml. He was arrested on 7/7/2007. He continues in custody from that date.

2. The learned counsel for the petitioner submits that accepting all the allegations, the offence is only a bailable one as the total quantity of Buprenorphine LUPEGESIC available in 8 ampules can only be 8 x 29 x 2 mgms which is far below the maximum prescribed as small quantity, that is 1000 mg ie.1 gm. The learned counsel for the petitioner contends that following the decision in Ismail v. State of Kerala [2007(1) KLT 959] which in turn follows the earlier decision of the Division Bench in Siyad v. State of Kerala [2005(4) KLT 590], the quantity must be read as small quantity and the offence must be reckoned as bailable. No contra contentions are raised by the learned Public Prosecutor.

3. I find the contention of the petitioner to be perfectly sustainable. I am satisfied that the petitioner is entitled to be enlarged on bail.

4. The learned counsel for the petitioner prays, the learned Public Prosecutor does not seriously oppose the said prayer on condition that the investigating officer is granted reasonable further time to complete the investigation and I am satisfied that regular bail can be granted to the petitioner subject to appropriate conditions.

5. In the result, this petition is allowed. The petitioner shall be released on bail on the following terms and conditions:

i) He shall execute a bond for Rs.50,000/- (Rupees fifty thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

ii) The petitioner shall make himself available for interrogation before the investigating officer as and when directed by the investigating officer in writing to do so.

**(R.BASANT, JUDGE)**

jsr

// True Copy// PA to Judge

**R.BASANT, J.**

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007